



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 5, 1998

Mr. Michael Bostic  
Assistant City Attorney  
City of Dallas  
Office of the City Attorney  
Criminal Law and Police Division  
City Hall  
Dallas, Texas 75201

OR98-1849

Dear Mr. Bostic:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 117112.

The City of Dallas Police Department (the "department") received a request for a copy of the investigative file involving a sexual assault where the requestor is also the complainant. The responsive file details the assault which took place on January 8, 1991. You claim that the documents relating to the sexual assault are excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.

Section 552.108 provides that:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [public disclosure] if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(2) it is information that deals with the detection, investigation or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from [public disclosure] if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution;

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) the internal record or notation:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

(c) This section does not except from the requirements of [s]ection 552.021 information that is basic information about an arrested person, an arrest, or a crime.

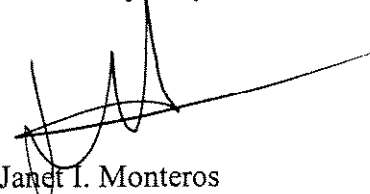
Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You explain that the requested information relates to a sexual assault which was reported February 18, 1991. You state that "this investigation has not resulted in a conviction of deferred adjudication." We conclude that the requested information may be withheld under section 552.108(a)(1).

However, we note that information normally found on the front page of an offense report is generally considered public. *See generally* Gov't Code § 552.108(c); *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); *Open Records Decision No. 127* (1976). However, in cases of sexual assault, section 552.101 protects from

public disclosure some information not generally protected by section 552.108. Section 552.101 excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." The common-law right to privacy, incorporated into the Open Records Act by section 552.101, protects information if it is highly intimate or embarrassing such that its release would be highly objectionable to a reasonable person *and* the public has no legitimate interest in it. *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). However, we note that, in this situation, information that relates to the requestor, who is the alleged victim, may not be withheld from her on the basis of protecting her own privacy interests. *See* Gov't Code § 552.023(a).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Janet I. Monteros  
Assistant Attorney General  
Open Records Division

JIM/nc

Ref.: ID# 117112

Enclosures: Submitted documents